

Article 8.

Assurance Fund.

§ 43-49. Assurance fund provided; investment.

Upon the original registration of land and also upon the entry of certificate showing the title as registered owners in heirs or devisees, there shall be paid to the clerk of the court one tenth of one percent (0.1%) of the assessed value of the land for taxes, as an assurance fund, which shall be paid over to the State Treasurer, who shall be liable therefor upon his official bond as for other moneys received by him in his official capacity. He shall keep all the principal and interest of such fund invested, except as required for the payment of indemnities, in bonds and securities of the United States, of this State, or of counties and other municipalities within the State. Such investment shall be made upon the advice and concurrence of the Governor and Council of State, and he shall make report of such funds and the investment thereof to the General Assembly biennially. When registration involves the State of North Carolina or any political subdivision thereof, the local tax collector shall assess the value of the land involved as if for tax purposes and the amount to be paid to the clerk shall be an amount equal to one tenth of one percent (0.1%) of such assessed value; provided, however, that no taxes shall be levied upon such land while title thereto remains in the State of North Carolina or any political subdivision thereof. (1913, c. 90, s. 33; C.S., s. 2422; 1963, c. 946, s. 2.)

§ 43-50. Action for indemnity.

Any person who, without negligence on his part, sustains loss or damage or is deprived of land, or of any estate or interest therein, through fraud or negligence or in consequence of any error, omission, mistake, misfeasance, or misdescription in any certificate of title or in any entry or memorandum in the registration book, and who, by the provisions of this Chapter, is barred or in any way precluded from bringing an action for the recovery of such land or interest or estate therein or claim upon same, may bring an action in the superior court of the county in which the land is situate for the recovery of compensation for such loss or damage from the assurance fund. Such action shall be against the State Treasurer and all other persons who may be liable for the fraud, negligence, omission, mistake or misfeasance; but if such claimant has the right of action or other remedy for the recovery of the land, or of the estate or interest therein, or of the claim upon same, he shall exhaust such remedy before resorting to the assurance fund. (1913, c. 90, s. 34; C.S., s. 2423.)

§ 43-51. Satisfaction by third person or by Treasurer.

If there are defendants other than the State Treasurer, and judgment is rendered in favor of the plaintiff and against the Treasurer and some or all of the other defendants, execution shall first be issued against the other defendants, and if such execution is returned unsatisfied in whole or in part, and the officer returning the same shall certify that it cannot be collected from the property and effects of the other defendants, or if the judgment be against the Treasurer only, the clerk of the court shall certify the amount due on the execution to the State Treasurer, and the same shall be paid. In all such cases the Treasurer may employ counsel who shall receive reasonable compensation for his services from the assurance fund. (1913, c. 90, s. 35; C.S., s. 2424; 1993, c. 257, s. 1.)

§ 43-52. Payment by Treasurer, if assurance fund insufficient.

If the assurance fund shall be insufficient at any time to meet the amount called for by any such certificate, the Treasurer shall pay the same from any funds in the treasury not otherwise appropriated; and in such case any amount thereafter received by the Treasurer on account of the assurance fund shall be transferred to the general funds of the treasury until the amount advanced shall have been paid. (1913, c. 90, s. 36; C.S., s. 2425.)

§ 43-53. Treasurer subrogated to right of claimant.

In every case of payment by the Treasurer from the assurance funds under the provisions of this Chapter the Treasurer shall be subrogated to all the rights of the plaintiff against all and every other person or property or securities to a trustee, or by the improper exercise of any power of sale in benefit of the assurance fund. (1913, c. 90, s. 37; C.S., s. 2426.)

§ 43-54. Assurance fund not liable for breach of trust; limit of recovery.

The assurance fund shall not be liable to pay any loss, damage or deprivation occasioned by a breach of trust, whether expressed, constructive or implied, by any registered owner who is a trustee, or by the improper exercise of any power of sale in a mortgage or deed of trust. Nor shall any plaintiff recover as compensation under the provisions of this Chapter more than the fair market value of the land at the time when he suffered the loss, damage or deprivation thereof. (1913, c. 90, s. 38; C.S., s. 2427.)

§ 43-55. Statute of limitation as to assurance fund.

Action for compensation from the assurance fund shall be begun within three years from the time the cause of action accrued. In cases of infancy or other disability now recognized by law, persons under such disability shall have one year after the removal of such disability within which to begin the action. (1913, c. 90, s. 39; C.S., s. 2428.)